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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 29, 2001

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE000343

For Approval of Generation
Facilities pursuant to Virginia
Code § 56-580 D or, in the
Alternative, for Approval of
Expenditures pursuant to Virginia
Code § 56-234.3 and for a
Certificate of Public Convenience
And Necessity pursuant to Virginia
Code § 56-265.2

and

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUF000021

For authority under Chapters 3,
4 and 5 of Title 56 of the Code
of Virginia to participate in
lease financing arrangements for
construction of generation
facilities, and for a declaration
of non-jurisdiction

ORDER GRANTING ADDITIONAL AUTHORITY

On March 12, 2001, the State Corporation Commission entered a Final Order in the captioned matters, and, among other things, granted Virginia Electric and Power Company ("Virginia Power" or "the Company") authority to construct, acquire and operate the generating units at the Possum Point Power Station, as more

specifically described in the Company's June 16, 2000, application docketed as Case No. PUE000343 and its July 5, 2000, application docketed as Case No. PUF000021. The Commission's March 12, 2001, Order also approved a synthetic lease agreement to be used to finance the construction of Unit 6 at the Company's Possum Point Power Station ("Unit 6"), as modified by the Commission November 17, 2000, Order entered in Case No. PUF000021, and Exhibit 1 attached to Exhibit LTO-13 in testimony in Case No. PUE000343, and to fund the pipeline partially.

On March 30, 2001, the Company filed a Petition for Reconsideration and Motion to Amend Final Order ("Petition"), wherein it requested that it be allowed to increase the total amount it could borrow under the synthetic lease approved in Case No. PUF000021 from \$300 million to \$370 million. In its Petition, Virginia Power explained that it recently concluded a comprehensive update of its previous estimate based on its actual experience in procuring the equipment and services necessary to construct Unit 6 at Possum Point. According to the Company, its updated projected cost for Unit 6 is now \$366 million, rather than \$300 million. This revised estimate includes an increase in contingency expenses of approximately \$17 million and an amount of approximately \$10 million for full financing for the natural gas pipeline lateral to the Possum Point Project through the synthetic lease.

By Order dated April 2, 2001, the Commission granted Virginia Power's request for reconsideration to the extent necessary to permit the consideration of the issues raised in its Petition.

In Case No. PUE000741, the Commission's docket established to consider the Company's application for a certificate of public convenience and necessity to construct the pipeline, the Company noted that an affiliate of Virginia Power, Dominion Transmission, Inc. ("DTI"), was selected to construct, operate and maintain the pipeline.¹ By Commission Order dated June 20, 2001, the Commission authorized Virginia Power to construct, own and operate the pipeline upon receipt of final Commission approval of the synthetic lease financing pending in Case No. PUF000021, and final approval of the Construction Contract and O&M Agreement that are at issue in Case No. PUA010025.

As we noted in our November 17, 2000, Order entered in Case No. PUF000021, Dominion Equipment II, Inc., ("DEI Sub"), an affiliate of Virginia Power, was created to act as construction agent for the Possum Point Project. In addition, DEI Sub entered into a synthetic lease for Unit 6. Virginia Power will acquire

¹ The terms of the construction agreement between Virginia Power and DTI are memorialized in a Construction Contract, attached to our June 20, 2001, Order in Case No. PUE000741. Likewise, the terms and conditions under which DTI will operate and maintain the pipeline are memorialized in the Operating and Maintenance Agreement ("O&M Agreement"), also attached to our June 20, 2001, Order in Case No. PUE000741.

control of Unit 6 from DEI Sub through a sublease agreement. In our November 17, 2000, Order in Case No. PUF000021 we expressed

concern with regard to Virginia Power being able to obtain and maintain control of Unit 6 through its synthetic lease financing arrangement.

Based upon these concerns, we required, among other things, that Virginia Power take all actions necessary to ensure that it will have the right to acquire control of Unit 6 through the sublease upon completion of construction and to reform the sublease agreement to the extent necessary, to assure that Virginia Power can maintain, to the extent practicable, the same control of Unit 6 as DEI Sub may enjoy under the lease.

With regard to the pipeline which Virginia Power now proposes to finance with proceeds from the synthetic lease arrangement, the use of the synthetic lease to finance the pipeline may raise additional concerns. While Virginia Power will be granted a Certificate of Public Convenience and Necessity for the pipeline once it complies with the conditions set out in the June 20, 2001 order, it will, through its construction contract and O&M agreement permit DTI to exercise discretion in the construction, operation and maintenance of the pipeline.

Moreover, our Staff has informed us that it has some concerns with regard to Virginia Power's ability to maintain control of the pipeline due to language in the O&M Agreement, the Construction Contract, including the assignments therein,

and an Easement Support Agreement that is intended to grant the lenders access to Virginia Power's easements in the event of default by Virginia Power. The Easement Support Agreement, copy of which was filed with the Commission in the captioned matter (DCC No. 010610108), is a document to be executed between Virginia Power and the lenders in the synthetic lease agreement.

In response to our Staff's concerns, Virginia Power, by counsel, filed revisions to its O&M Agreement and the Construction Contract, including the assignments therein as well as the Easement Support Agreement in Case Nos. PUE000343, PUF000021 and PUA010025. Our Staff has informed us that these revisions alleviate its concerns and has recommended that the Company's request to increase the amount of the lease to \$370 million and to use the proceeds to finance the pipeline should be granted, provided these agreements are executed with the revisions proposed in the June 27 and 28, 2001 filings.

ON CONSIDERATION WHEREOF, the Commission is of the opinion and finds that increasing the amount that Virginia Power can borrow under the synthetic lease arrangement from \$300 million to \$370 million and using these proceeds to finance the construction of the pipeline will not be detrimental to the public interest provided that the arrangements as revised to assure Virginia Power's control over the construction of Unit 6 and the natural gas pipeline are made. Accordingly,

IT IS ORDERED THAT:

- 1) Virginia Power is authorized to borrow up to \$370 million under the synthetic lease financing arrangement.
- 2) Virginia Power is authorized to finance the pipeline with proceeds from the synthetic lease, provided it executes the O&M Agreement, Construction Contract and Easement Support Agreement as set out in the attachments to its letters of June 27, 2001, and June 28, 2001, filed with the Clerk of the Commission.
- 3) The Company shall file executed agreements with the Commission conforming to the revisions that Virginia Power has proposed in its June 27 and June 28 letter filed with the Clerk of the Commission in this docket.
- 4) This matter shall remain under the continued review, audit and appropriate directive of the Commission.